

AN ASSOCIATION OF
MONTANA HEALTH
CARE PROVIDERS

Testimony on SB 51
Before the Senate Public Health Committee

By Bob Olsen, Vice President, MHA
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At the outset, let me say that MHA and our member organizations are committed to making sure patients have as much information as possible about their treatment options. That means providing information about the cost of their care, the quality of the care they would receive and the outcomes that have been achieved in various settings.

Our members and the providers who work in our facilities work hard to make sure patients have enough information to make informed decisions about their medical treatment options.

In fact, as part of this effort, MHA has developed a Web site that allows patients to compare the price of hospital services across the state. It also links them to the federal Quality Compare Web site so they can compare the quality of care provided by the state's hospitals.

Certainly the public policy goal set forth in SB 51 is consistent with MHA's goals. But with SB 51 the devil is certainly in the details – and that's where we have serious problems.

Simply stated, we do not believe this bill achieves its stated goal.

If enacted, this bill is likely to lead to make it even more difficult to navigate an already complicated health care system. We have reached this conclusion for several reasons.

Applicability

Let me begin by looking at the bill's applicability.

MHA's policy is that it is reasonable to require a physician, physician assistant or nurse practitioner to disclose an ownership interest in a health facility to which they are referring patients. Such a disclosure falls within the guidelines for ethical conduct set forth by the American Medical Association. Federal regulations require a physician-owned hospital to disclose its physician owners upon the request of the patient.

But SB 51 goes well beyond this public policy. SB 51 would apply to all licensed health professionals, rather than just to physicians, physician assistant and nurse practitioners. That means it applies to RNs, to lab technologists, radiology technologists – even dietitians. In a hospital, that's an enormous number of people.

So what would these health care professionals be required to do? Well, under SB 51, the health care professional would be required to inform a patient that he or she is an owner, under contract or employed by the facility to which the patient is being referred. Finally, the definition of a referral is so broad that disclosures would be required virtually any time a patient is handed off to another licensed health care professional.

For example, a nurse working in a nursing home would need to disclose his or her status as an employee when handing care off to the staff occupational therapist. A home health agency nurse would have to disclose his or her status as being under contract to the agency when handing off care to another nurse under contract to the same agency.

SB 51 applies in every location in the State. This means that any licensed professional in a small rural community would have to disclose – even though he or she is the only such professional in town.

Simply stated, we can't figure out how to implement the provisions of SB 51 in fashion that is meaningful to the patient. Lists of health care professionals at a local hospital aren't going to help inform a patient of their treatment options.

Required disclosure

SB 51 prescribes language to provide to a patient stating that they will be treated by the facility's employees. It also states on page 2, line 9 of the bill that the patient has a right to choose from among the providers at the facility.

This is simply not true. When you have a lab test performed you don't choose which lab professional performs the test. Nor do you choose which nurse will provide your care.

Exceptions are Confusing

SB 51 provides an exception in the case of emergency services, admission to a hospital or ambulatory surgery center. But the bill appears to apply in the outpatient hospital setting. Thus if a patient were admitted to an ASC for surgery the disclosures do not apply, but if the person obtains surgery at the hospital or in a physician's office the provisions of the bill do apply.

This is simply not fair.

SB 51 fixes the disclosure requirement on the licensed medical professional. The provisions of SB 51 are appropriately to be codified as part of Title 37 of the Montana Code Annotated.

But the bill also states that hospitals are required to comply with the provisions of 42CFR 482.43. This is true regardless of passage of SB 51. But the federal rule being cited does not apply to the licensed medical professional. We are unsure if the intent of the bill is to apply this hospital regulation to the licensed medical professional, or is merely making mention of a hospital's legal responsibility.

For the reasons that we enumerate above we believe that enacting SB 51 will not provide consumers with meaningful information that they need to make informed decisions about their health care needs. It will actually operate in the reverse fashion.

MHA asks that you vote against SB 51.